

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

OSCAR MADRIGAL SENCION,

Plaintiff,

v.

SAXON MORTGAGE SERVICES, INC.,
et al.,

Defendants.

Case No.: C 10-3108 PVT

**INTERIM ORDER RE DEFENDANT
OCWEN'S MOTION TO DISMISS**

On August 31, 2010, the parties appeared for hearing on the motion to dismiss filed by Defendant Ocwen Loan Servicing, LLC ("Ocwen"). Based on the papers submitted and the discussions at the hearing, the court finds it appropriate to issue this interim order. Therefore,

IT IS HEREBY ORDERED that, no later than September 15, 2010, Defendant Ocwen shall file a supplemental brief explaining what, if any, role it has played with regard to the loans secured by the subject property. Defendant Ocwen bases its motion to dismiss on its claim that it did not begin servicing those loans until after the trustee's sale of the property. However, because it appears both loans at issue were purchase money loans, it is unclear what debt remained to be serviced after the trustee's sale. *See*, CAL. CODE CIV. PRO. § 580b (disallowing deficiency judgments on purchase money home loans); *see also*, *Brown v. Jensen*, 41 Cal.2d 193, 199 (1953) ("the security alone may be looked to for payment of a debt secured by a purchase money trust deed"). While it appears

1 dismissal of the complaint as drafted is warranted, whether leave to amend is warranted may depend
2 on what role, if any, Defendant Ocwen has played in connection with the subject loans.

3 Dated: 9/1/10

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5 PATRICIA V. TRUMBULL
6 United States Magistrate Judge
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